

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 1-16, 19, 21-31, 33-39, 40-41, and 43 remain in the application. Claims 16, 21, 25, 28-29, 35, and 38-39 have been amended. Claims 17-18, 20, 32, 42, and 44 have been cancelled. Claims 1-15 and 36-37 have been withdrawn.

In item 5 on page 3 of the above-identified Office action, the Examiner has stated that should claims 16 and 38 be found allowable, claims 35 and 39 will be objected under 37 CFR 1.75 as being a substantial duplicate thereof respectively.

Claims 35 and 39 have been amended to clearly distinguish from claims 16 and 38. Claims 16 and 38 recite temporary ratcheting or tensioning posts, whereas claims 35 and 39 recite permanent ratcheting or tensioning posts, which will not be removed after construction and make the installed the fence quite different.

In item 8 on page 4 of the above-mentioned Office action, claims 16, 19, 27-28, 30-31, 33-35, and 38-44 have been rejected as being unpatentable by Bunch (US pat. No. 355,135) under 35 U.S.C. § 103(a).

The rejection has been noted and claims 16, 28, and 38 have been amended in an effort to even more clearly define the invention of the instant application. More specifically, the features of claims 20 and 32 have been added to claims 16, 28, and 38 respectively. Since claims 20 and 32 contain allowable subject matter as indicated by the Examiner in item 11 on page 8 of the Office action, claims 16, 28, and 38 are now believed to be allowable. Since claims 19, 27, 30-31, 33-35, 39-41, and 43 are ultimately dependent on claims 16, 28, or 38, they are believed to be patentable as well. Claims 42 and 44 have been cancelled.

Applicants acknowledge the Examiner's statement in item 11 on page 8 of the above-mentioned Office action that claims 20-26, 29, and 32 would be allowable if rewritten in independent form to including all of the limitations of the base claim and any intervening claims.

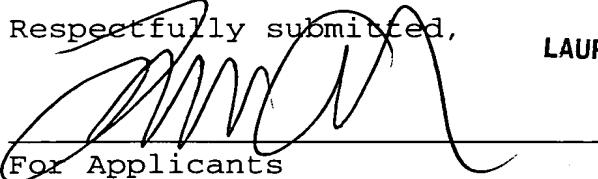
The feature of claim 20 has been added to claims 16 and 38 respectively. The feature of claim 32 has been added to claim 28. Since claims 21-26 and 29 are ultimately dependent on allowable claims 16 or 28, they are believed to be allowable in dependent form.

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Reply to Office action of December 9, 2003

In view of the foregoing, reconsideration and allowance of claims 16, 19, 21-31, 33-35, 38-41, and 43 are solicited. Rejoinder of method claims 1-16 and 36-17 is requested upon allowance of product claims 16, 19, 21-31, 33-35, 38-41, and 43. See MPEP 821.04.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made. Please charge any fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,  
  
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